

EXHIBIT 12

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Plaintiff,

v.

LZLABS GMBH, and
TEXAS WORMHOLE, LLC,

Defendants.

Case No. 6:22-cv-00299

JURY TRIAL REQUESTED

**PLAINTIFF INTERNATIONAL BUSINESS MACHINES CORPORATION'S
SECOND AMENDED INITIAL DISCLOSURES**

Pursuant to Rule 26(a)(1)(A) of the Federal Rules of Civil Procedure ("Rule"), Plaintiff International Business Machines Corporation ("IBM") hereby makes the following second amended initial disclosures. These disclosures are based upon IBM's investigation to date, which is ongoing. IBM reserves the right to correct, modify, and/or supplement these disclosures in accordance with Rule 26(e).

I. IDENTIFICATION OF INDIVIDUALS

Pursuant to Rule 26(a)(1)(A)(i), IBM identifies the following individuals known to date that are likely to have discoverable information that IBM may use to support its claims or defenses. IBM anticipates that other individuals may also have discoverable information upon which IBM may rely, and thus IBM specifically reserves the right to identify additional individuals as discovery proceeds.

| Name | Last Known Address & Telephone | Subjects Of Information |
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| Shawn D. Lundvall | May be contacted through the undersigned counsel for IBM | <p>Mr. Lundvall is a Software Engineer at IBM.</p> <p>Mr. Lundvall is a co-inventor of U.S. Pat. Nos. 9,804,823 (the “’823 Patent”) and 8,190,664 (the “’664 Patent”) and is likely to have information regarding those patents, including conception and reduction to practice of the alleged invention(s); prosecution of the patents-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patents-in-suit.</p> |
| Eric M. Schwarz | May be contacted through the undersigned counsel for IBM | <p>Mr. Schwarz is a co-inventor of U.S. Pat. Nos. 9,804,823 (the “’823 Patent”) and 8,190,664 (the “’664 Patent”) and is likely to have information regarding those patents, including conception and reduction to practice of the alleged invention(s); prosecution of the patents-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patents-in-suit.</p> |

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| Phil C. Yeh | May be contacted through the undersigned counsel for IBM | Mr. Yeh is a co-inventor of U.S. Pat. Nos. 9,804,823 (the “’823 Patent”) and 8,190,664 (the “’664 Patent”) and is likely to have information regarding those patents, including conception and reduction to practice of the alleged invention(s); prosecution of the patents-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patents-in-suit. |
| Carlos Cavanna | May be contacted through the undersigned counsel for IBM | Mr. Cavanna is a Software Developer at IBM. Mr. Cavanna is a co-inventor of U.S. Pat. No. 9,235,420 (the “’420 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit. |

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| Reid T. Copeland | May be contacted through the undersigned counsel for IBM | <p>Mr. Copeland is a Senior Technical Staff Member at IBM.</p> <p>Mr. Copeland is a co-inventor of U.S. Pat. Nos. 9,235,420 (the “’420 Patent”) and 8,713,289 (the “’289 Patent”) and is likely to have information regarding those patents, including conception and reduction to practice of the alleged invention(s); prosecution of the patents-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patents-in-suit.</p> <p>Mr. Copeland also has information regarding COBOL, aspects of IBM trade secrets related to COBOL, and IBM’s COBOL documentation.</p> |
| Chad McIntyre | May be contacted through the undersigned counsel for IBM | <p>Mr. McIntyre is a Software Developer at IBM.</p> <p>Mr. McIntyre is a co-inventor of U.S. Pat. No. 9,235,420 (the “’420 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit.</p> |

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| Ali I. Sheikh | May be contacted through the undersigned counsel for IBM | Mr. Sheikh is a co-inventor of U.S. Pat. Nos. 9,235,420 (the “’420 Patent”) and 8,713,289 (the “’289 Patent”) and is likely to have information regarding those patents, including conception and reduction to practice of the alleged invention(s); prosecution of the patents-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patents-in-suit. |
| Patrick R. Doyle | May be contacted through the undersigned counsel for IBM | Mr. Doyle is a co-inventor of U.S. Pat. No. 8,713,289 (the “’289 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit. |
| Charles B. Hall | May be contacted through the undersigned counsel for IBM | Mr. Hall is a co-inventor of U.S. Pat. No. 8,713,289 (the “’289 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit. |

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| Andrew Johnson | May be contacted through the undersigned counsel for IBM | <p>Mr. Johnson is a Software Developer at IBM.</p> <p>Mr. Johnson is a co-inventor of U.S. Pat. No. 8,713,289 (the “’289 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit.</p> |
| Alex Brown | May be contacted through the undersigned counsel for IBM | <p>Mr. Brown is a co-inventor of U.S. Pat. No. 7,434,209 (the “’209 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit.</p> |
| Geraint North | May be contacted through Pete Chasman at Reed Smith LLP, which is counsel for ARM Limited. | <p>Mr. North is a co-inventor of U.S. Pat. No. 7,434,209 (the “’209 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit.</p> |

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| Frank Thomas Weigel | May be contacted through the undersigned counsel for IBM | Mr. Weigel is a co-inventor of U.S. Pat. No. 7,434,209 (the “209 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit. |
| Gareth Anthony Knight | May be contacted through the undersigned counsel for IBM | Mr. Knight is a co-inventor of U.S. Pat. No. 7,434,209 (the “209 Patent”) and is likely to have information regarding that patent, including conception and reduction to practice of the alleged invention(s); prosecution of the patent-in-suit; invalidity; prior art and prior public uses of the alleged invention(s); best mode for practicing the alleged invention(s); and ownership of the patent-in-suit. |
| Mark Anzani | May be contacted through the undersigned counsel for IBM | Mr. Anzani is the Executive of Special Projects at IBM. Mr. Anzani has information regarding IBM’s sales of mainframe products, IBM’s customers for its mainframe products, IBM’s marketing of its mainframe products, and the market for IBM’s mainframe products. |
| John Tilling | May be contacted through the undersigned counsel for IBM | Mr. Tilling is a CICS Transaction Server Development Lead at IBM. Mr. Telling has information regarding IBM’s Customer Information Control System (CICS), aspects of IBM’s trade secrets related to CICS, and IBM’s CICS documentation. |

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| Kelly Mogensen | May be contacted through the undersigned counsel for IBM | <p>Ms. Mogensen is Vice President of Finance, IBM z at IBM.</p> <p>Ms. Mogensen has information regarding IBM's financials related to the z mainframe.</p> |
| Steve Wallin | May be contacted through the undersigned counsel for IBM. | <p>Mr. Wallin is a director of CICS at IBM UK.</p> <p>Mr. Wallin has information regarding CICS, aspects of IBM's trade secrets related to CICS, and IBM's CICS documentation.</p> <p>Mr. Wallin also has knowledge about the relationship between IBM UK and Winsopia, and</p> |
| Peter Douxmont | May be contacted through the undersigned counsel for IBM | <p>Mr. Douxmont is a PL/I Compiler Technology Developer at IBM.</p> <p>Mr. Douxmont has information regarding PL/I, aspects of IBM's trade secrets related to PL/I, and IBM's PL/I documentation.</p> |
| John Horswill | Unknown | <p>Mr. Horswill was a Discovery Researcher at Winsopia. Mr. Horswill previously worked at IBM UK as a member of the CICS User Technology and had access to information about CICS, aspects of IBM's trade secrets related to CICS, and IBM's CICS documentation.</p> |
| Dan Hedley | Daniel Hedley c/o Kreston Reeves LLP Plus X Innovation Hub Lewes Road, Brighton BN2 PGL, England | <p>Dan Hedley had involvement in the alleged "clean room" process that Winsopia and LzLabs implemented.</p> |
| Adrian Auer-Hudson | Contact through counsel for Defendants | <p>Mr. Auer-Hudson is a former employee of Winsopia and was involved in providing information to LzLabs through the Discovery Request system.</p> |

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| John Moores | Contact through counsel for Defendants | Mr. Moores has an ownership interest in Defendants LzLabs and Texas Wormhole, and has information about their development, marketing, and efforts to sell the SDM. |
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IBM does not consent to or authorize any communications with the individuals listed above that are otherwise prohibited by the applicable rules of professional conduct and/or the Rules. IBM further identifies the individuals listed on the initial disclosures of LzLabs, GMBH and Texas Wormhole, LLC (collectively, “Defendants”) as persons potentially having knowledge of facts relevant to this action and reserves the right to rely upon any such individuals to support its claims and defenses in this action.

II. IDENTIFICATION OF CATEGORIES OF DOCUMENTS

Pursuant to Rule 26(a)(1)(A)(ii), IBM identifies the following categories of documents located to date that IBM presently believes it may use to support its claims or defenses, except those categories of documents to be used solely for impeachment. This information is based upon IBM’s investigation to date, which is ongoing, and IBM specifically reserves the right to identify additional categories of documents as discovery proceeds.

- The ’823 Patent, ’664 Patent, ’420 Patent, ’289 Patent, ’209 Patent (collectively, the “Patents-in-Suit”), and their prosecution histories;
- Documents related to the technology described and claimed in each of the Patents-in-Suit, including the conception and/or reduction to practice of the inventions claimed in each of the Patents-in-Suit;
- Documents related to ownership of the Patents-in-Suit;
- Documents related to the licensing of the Patents-in-Suit and other patents directed towards technologies comparable to that of the Patents-in-Suit;
- Documents related to IBM’s trade secrets;
- Financial documents and/or other documents related to damages;

- Financial documents and/or other documents related to the economic value of IBM's trade secrets;
- Documents related to IBM's mainframe products and mainframe technology;
- Documents related to IBM's information security policies and practices; and
- Documents related to the licensing of IBM's mainframe software products.

These documents are located in the offices of IBM or the offices of IBM's counsel, Desmarais LLP. Such documents have been or will be produced subject to the relevant provisions of the Court's orders, Local Rules, Federal Rules of Civil Procedure, and any Protective Order entered in this case. IBM's investigation is ongoing and expressly reserves the right to modify, amend, retract, and/or supplement its disclosures pursuant to Rule 26(a)(1)(A)(ii) as additional evidence and information become available to IBM or as otherwise appropriate.

III. DAMAGES

Pursuant to Rule 26(a)(1)(A)(iii), IBM identifies the following categories of damages:

IBM seeks damages sufficient to compensate it for Defendants' misappropriation and use of IBM's trade secrets and infringement of the Patents-in-Suit. Such damages may include lost profits, but in no event will be less than a reasonable royalty for Defendants' use of IBM's trade secrets and the patent inventions, together with interest and costs as fixed by the Court. In addition, these damages should be trebled pursuant to 35 U.S.C. § 284 because Defendants' misappropriation and use of IBM's trade secrets and infringement of the Patents-in-Suit was, and continues to be, willful and deliberate.

IBM also seeks the recovery of its reasonable attorney fees and costs incurred in connection with this exceptional case pursuant to 35 U.S.C. § 285. IBM is unable to compute its exact amount of damages at this time and will provide applicable calculations during the course of expert discovery pursuant to the scheduling order to be entered by the Court.

IV. INSURANCE DISCLOSURE

Pursuant to Rule 26(a)(1)(A)(iv), IBM identifies the following insurance agreements:

IBM is not presently aware of any applicable insurance agreements.

Dated: March 26, 2024

Respectfully submitted,

/s/ Adam Steinmetz

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via electronic mail on March 26, 2024.

/s/ Adam Steinmetz

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